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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,327	03/02/2004	William McAlister	McALISTER-FULL	1842
4988	7590	10/17/2005		
ALFRED M. WALKER 225 OLD COUNTRY ROAD MELVILLE, NY 11747-2712			EXAMINER KLEBE, GERALD B	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/791,327

Applicant(s)

MCALISTER, WILLIAM

Examiner

Gerald B. Klebe

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*GP Klebe*  
6 October 2005

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 03/02/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification Objections***

1. The disclosure is objected to because of the following:

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

a. Claim 1 in line 12 recites the limitation “swiveled legs”; no support can be found in the disclosure as filed including the drawings for the legs being swivelable; the specification appears to support the interpretation of “swiveled jacks” only.

b. Claim 4 in line 2 recites the limitation “jack mounted on a side of said platform”; no support can be found in the specification as filed for jack being mounted on the side of the platform; the jacks appear to be mounted on the legs which are mounted on the sides of the platform.

Appropriate correction and/or clarification is required.

### ***Claims Objections***

2. Claim 2 is objected to because of the following informalities:

In line 4 the word --at-- appears to be missing between “and” and “another.”

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 2-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 2 in lines 1-2 recites the limitation “said means for removably connecting”; there is insufficient antecedent basis for this limitation in the claim.

b. Claim 2 in line 2 recites the limitation “means for removably connecting said hitch receiver member to said trailer hitch”; it is not clear from the recitation of the claim whether or not Applicant is invoking the conditions of 35 U.S.C. § 112, Sixth paragraph to be applied in the interpretation of the claim since the further recitation of the claim, inappropriately recites additional structure directly relating to the “means for removably connecting”, thereby reciting sufficient structure for achieving the specified function. Refer MPEP § 2181.

c. Claim 1 in line 12 recites the limitation “a plurality of swiveled legs”, whereas claim 4 in lines 2-3 recites the limitation “each of said swiveled legs comprises a jack mounted on a side of said platform for rotation about a swivel joint”. Since claim 4 depends from claim 1 it is not clear whether what is being claimed in claim 4 is a jack mounted on a swivelable leg mounted to a side of the platform or whether what is claimed is a jack mounted on a swivelable joint mounted to a side of the platform and to which is further mounted a swivelable leg or whether some other structure is to be construed from the claim recitation.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Chesney (US 4744590).

Chesney discloses a cantilevered hitch dolly (Fig 1, item 10) for use with and in combination with a vehicle (34), comprising:

(re: claim 1) a trailer hitch (32) extending from the vehicle;

a dolly (10) comprising a platform (12) having a hitch receiver member (16);

a connector(30) removably connecting the hitch receiver to an exposed end of the trailer hitch providing a cantilever support of the platform above ground level so that when the platform is connected to the trailer hitch the vehicle may be moved with dolly firmly joined to the vehicle and free of any contact with the ground level (refer Fig 4); and,

a plurality of swiveled legs (Fig 2, items 400) mounted on opposite sides of the platform for being lowered when the vehicle is in place and the dolly is being removed from attachment to the vehicle (refer col 4, lines 1-9); and,

respective movement actuators (44) being mounted on bottom ends of the swiveled legs to allow the dolly to be readily moved about after detachment from the vehicle and being wheeled back into position for attaching the hitch receiver to the trailer hitch; and,

(re: claim 11) wherein the movement actuators are casters (refer col 3, lines 57-60); and,

(re: claim 12) wherein the movement actuators are wheels (44).

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-3, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesney (US 4744590) in view of Hammons (US 4645230).

As discussed above, Chesney discloses all of the features of claim 1 from which claims 2-3 depend.

Chesney is silent as to whether (**re: claim 2**) the connector comprises a coupling shank removable from the trailer hitch and from the hitch receiver member, and whether (**re: claim 3**) the hitch receiver member is able to receive and store the coupling shank when not in use.

However, Hammons teaches a towed hitch dolly which uses a connector (Hammon uses a pair of connectors, taken as Fig 2, items 43) comprising a coupling shank (43) removable from the trailer hitch and also from the hitch receiver member and wherein the coupling shank is received and stored within the hitch receiver member when the coupling shank is not in use (refer col 3, lines 16-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to have modified the hitch dolly of Chesney to use a connector that is adapted to be removably connected to the trailer hitch and to the hitch receiver when in use and that is adapted to be stored within the hitch receiver member when the connector is not being

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used as taught by Hammons in order to secure the connector against being lost to the hitch dolly when not in use.

9. Claims 4-6, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesney (US 4744590) in view of Hammons (US 4645230) and further in view of Schramm (US 2990966).

As discussed above, the combination of Chesney and Hammons discloses all of the features of claim 3 from which claims 4-6 depend.

**Regarding the features of claim 4**, the combination of Chesney and Hammon as applied to claim 3 lacks explicit disclosure wherein each of the swiveled legs comprises a jack mounted on the platform for rotation about a swivel joint, the jack being elongated and stored parallel to a side of the platform when retracted and having one end with a wheel mounted thereon and having an opposite end with a crank handle for allowing lowering of the wheel when the jack is pivoted into a vertical position.

However, Schramm teaches a hitch dolly comprising a swivel leg and jack mounted thereto for rotation about a swivel joint, the jack further having one end with a wheel mounted thereon and having an opposite end with a crank handle for allowing lowering of the wheel when the jack is pivoted into a vertical position for relieving the load on the trailer hitch and thereby permitting convenient release of the dolly from the vehicle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to have substituted at each corner of the platform for the swivel leg and wheel combination of Chesney the swivel leg, jack and wheel as taught by Schramm in order

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to level the trailer hitch platform when stopped and disengaged from the vehicle on a sloped and/or uneven surface.

**Regarding the features of claims 5 and 6**, Chesney further discloses a platform of the hitch dolly that is fabricated from angle members (refer fig 1, items 12); and wherein the hitch receiver member is attached to an underside of the platform (refer fig 1, item 16).

10. Claims 7-10, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesney (US 4744590) in view of Hammons (US 4645230) and further in view of Porter et al. (US 5460304).

As discussed above, the combination of Chesney, Hammons and Schramm as applied to claim 6 above discloses all of the features of claim 6 from which claims 7-9 depend.

The combination of Chesney, Hammons and Schramm as applied above lacks explicit disclosure wherein the platform supports a storage container that (re: claim 7) is an industrial toolbox; (re: claim 8) is a recreational storage box; and (re: claim 9) has a workspace mountable over the storage container.

However, Porter et al. teaches a hitch dolly wherein the platform supports any one of an industrial toolbox (Fig 1), a recreational storage box (Fig 3; and refer col 4, lines 55-60) and can have a workspace mounted over the storage container (Fig 4; where the rack, 84, is taken as constituting a workspace for skiers to conveniently store, retrieve, and if necessary, repair skis in between skiing events).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to have modified the hitch dolly of the combination of Chesney, Hammons and Schramm as discussed above to provide for the support of an industrial toolbox or

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recreational storage box and to provide a workspace mounted over the storage container in accordance with the teachings of Porter et al. in order to avoid the lifting mechanics associated with positioning a heavy awkward cargo in the trunk or interior storage space of the vehicle and thereby prevent an individual's injury due to such awkward lifting of heavy and ungainly objects as suggested by the reference at column 1, lines 27 to 30.

**Regarding the feature of claim 10** wherein the storage container and hitch dolly are attached to an airlift drop, it would have been obvious to one skilled in the art at the time the instant invention was made to have provided the storage container of the hitch dolly with feature(s) adapted for attachment to an airlift since the examiner takes Official Notice that it is old and well-known in the art to provide heavy toolboxes and other heavy industrial copntainers with features adapting them to be airlifted as necessary.

***Prior Art made of Record***

11. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art of Clayton; of Tomoski; of Chown; of Liscinsky; of Mahvi; of Walker; of De Castelet; of Brennan; of Gostomski; and of Wilje each show features in common with some of the other structures of the inventive concept disclosed in the instant application.

***Conclusion***

12. Any inquiry concerning this or earlier communication(s) from the examiner should be directed to Gerald B. Klebe at 571-272-6695; Mon.-Fri., 8:00 AM - 4:30 PM ET, or to Supervisory Patent Examiner Christopher P. Ellis, Art Unit 3618, at 571-272-6914.

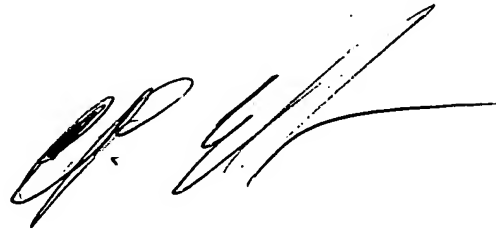
Official correspondence should be sent to the following TC 3600 Official number as follows: 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*gbklebe*

gbklebe / Art Unit 3618 / 6 October 2005



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